IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Chapter VIII, Rule 32(2) (b)
Description of case

Writ Petition No. 279 of 2004

Date of decision: 16th September, 2004

For the approval of:

Hon'ble Chief Justice V.S. Sirpurkar.

Hon'ble Mr. Justice Irshad Hussain.

- Whether the order/judgment should be sent to the reporters for reporting ? ( )

- Whether the reporters be allowed to see the judgment? (Yes)

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IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

W.P. No. 279 of 2004 (S/B)

Dr. B.B.S. Rawat,
S/o Late Sri Pooran Singh Rawat,
R/o House No. 2/9, Mohalla Jaunpur,
Tehsil Kotdwar, District Pauri Garhwal. …… Petitioner

Versus

State of Uttaranchal through Secretary,
Higher Education, Civil Secretariat,
Uttaranchal,
Dehradun & others. …… Respondents

Mr. Rajendra Dobhal, learned counsel for the petitioner.
Mr. N.C. Gupta, learned Standing Counsel for the State.

Hon. V.S. Sirpurkar, C.J.
Hon. Irshad Hussain, J.

1. Rule. Heard finally with the consent of the parties.

2. The challenge in this writ petition is to the transfer of the petitioner from Kotdwar, District Pauri Garhwal to Agastmuni, District Rudraprayag. The petitioner opposes the said transfer mainly on the ground that his son is a mentally and physically challenged person being deaf & dumb and that he has four students under him, who are doing D.Phil. and that he, himself, is doing D.Lit. He also claims that he, being 57 years old, wants to say in Kotdwar.

3. All these factors cannot be considered against the transfer, which is an incident of service. It is seen form the transfer order that he has been transferred to Agastmuni in a vacant post. Mr. N.C. Gupta, learned Government pleader says that this was on the administrative exigency that there was nobody to teach in Agastnumi. It is true that the transfer should have been made only after consultation with the Committee as per the Government guidelines. However, there cannot be a permanent claim about a place of service. It is reported that the petitioner is serving there in Kotdwar since 1991, therefore, he has already spent mote than 13 years in that place.

The petitioner also says that he is to retire in April, 2008. That is a considerable time and it cannot be said that the transfer is made at the fag end of his career.

4. We, therefore, do not see any reason to interfere in this matter, However, we should only give a liberty to the petitioner to apply for any other place convenient to him in view of his impending retirement in April, 2008. But, that he shall be able to do only if he joins at Agastmuni. I such a representation is made by the petitioner, it Shall be disposed of within two months from the date, the representation is received.

5. With these observation, the writ petition is finally disposed of. Rule is made absolute in the aforesaid terms.

(Irshad Hussain, J.)
16.09.2004

(V.S. Sirpurkar, C.J.)
16.09.2004

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